IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.2814 OF 2004

Omana Francis.....Petitioner

Versus

M/s.Jayant Tipnis & Consultants
Pvt. Ltd. & Ors.....Respondents
Mr. George P. Thamas, for the Petitioner
None for the Respodnents.

CORAM: F.I. REBELLO, J.
DATE : 16th October,2004

P.C.:

1. The Appellate Authority vide order dated 30th March, 2002 set aside the order of the Controlling Authority and remanded the matter to the Controlling Authority for reconsideration in terms of what is set out in the order. This petition is filed on 24th August, 2004. There is not a whisper in the petition explaining as to why the petitioner could not move this Court between the date of the order and 24th August, 2004 which is nearly two and half years after passing of the order. On this ground along the petition is liable to be dismissed on the ground of laches.

2. Apart from that before the Appellate Authority though the petitioner was served, the petitioner chose not to appear at the hearing of the Appeal. The Appellate Authroity on hearing Counsel for the appellant before it, the respondents herein found that the Controlling Authority had not framed an issue as to whether after incorporation of M/s.Jayant Tipnis Consultants Pvt. Ltd., and M/s.Jayant Tipnis, Architect a property concerned continued to exist. The contention of the respondent was that the petitioner herein was earlier employed with Jayant Tipnis, Architect and was employed by the company which was incorporated in the year 1983 from 1st April, 1991

by order dated 31st March, 1991. There are some other reasons which are set out in the order. I have considered also the order of the Controlling Authority. On perusing the said order of the Controlling Authority I do not find that the Appellate Authority has committed any error of law in setting aside the order of the Controlling Authority.

2. On behalf of the petitioner, learned Counsel contends that the Appellate Authority had no jurisdiction to remand the matter. In my opinion such a power would vest with the Appellate Authority, if it comes to the conclusion that points required for determination have not been determined by the Authority whose order is appealed before it. That contention, therefore, as urged on behalf of the petitioner by the learned Counsel has to be rejected. If the argument of the Counsel for the petitioner is to be accepted, it will be justice that will be defeated.

3. Considering that the petitioner as well as the respondents will have an opportunity of meeting their case and as the petitioner has approached this Court after two and half years this would not be a fit case for this Court to exercise its extra ordinary jurisdiction. Hence petition rejected.

(F.I.REBELLO, J.)